

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY NEW DELHI IMMEDIATE

C O N F I D E N T I A L STATE 236128

E.O. 11652: GDS

TAGS: EFIN, IN

SUBJECT: RUPEE DISCUSSIONS

REFS: (A) STATE 234734; (B) STATE 232098; (C) NEW DELHI
13842

1. FOLLOWING ARE DRAFTING COMMENTS FURTHER TO REF. A,
BASED ON NOVEMBER 23 DRAFT.

2. PAGE 9, PARA 5, "FULLY EXPENDED". A MORE PRECISE
WORD WOULD BE "OBLIGATED," TO AVOID AMBIGUITY AS TO
WHETHER SIMPLY TAKING THE MONEY DOWN AND TRANSFERRING
TO ANOTHER ACCOUNT FOR A PROJECT PURPOSE CONSTITUTES
AN EXPENDITURE. WE HAVE NO DIFFICULTY WITH PHRASE AS
USED HERE, BUT YOU MAY WISH TO NOTE THIS LANGUAGE
TO GOI IF QUESTIONS RAISED CONCERNING "ALLOCATION"
OF FUNDS FROM TRANSITION ACCOUNT OR COOLEY ACCOUNT
FOR USG PURPOSES, INCLUDING NEPAL.

3. PAGE 10, PARA 6(B), LINE 2. STRIKE "5(A)" AND
INSERT "THE PRECEDING PARAGRAPH 6(A)".

4. PAGE 11, PARA 6(D). REFERENCE TO PARA 5(A) SHOULD
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BE TO PARA 6(A).

5. PAGE 12, THIRD WHEREAS CLAUSE. AS PER REF. B, PARA

5(C), THE PHRASE "AND UNOBLIGATED" SHOULD BE DELETED.

6. PAGE 13, PENULTIMATE WHEREAS CLAUSE. WE FEEL THE PHRASE "WHICH ARE TREATED...IMMEDIATELY ABOVE" IS AWKWARD, AND, MORE IMPORTANTLY, IS APT TO RAISE QUESTIONS HERE (E.G., ARE THEY PL-480 RUPEES OR NOT? WHY "TREATED"?). SUGGEST THE PHRASE BE DROPPED.

7. PAGES 13-14, PARAS 1 AND 2. PER PARA 1, REF. C, WE ASSUME THESE NOW PARALLEL PARAS 1(A) AND 1(B) OF PART I. WE NOTE NOV. 23 DRAFT USES WORD "PAY" IN PARA 1 OF PART II RATHER THAN "PREPAY." PLEASE CHECK THAT NEW FORM USES "PREPAY" TO CONFORM WITH PART I.

8. PAGE 14, PARA 3. SHOULD BE MODIFIED TO TRACK FORM OF PARA 1(C) OF PART I, AS AMENDED BY REF. A, PARA 6.

9. PAGE 14, PARA 4, LINE 3: CHANGE "PAYMENT" TO "PAYMENTS".

10. PAGE 14, PARA 5. DEFINITE TIME NEEDED. SEE REF A, PARA 7.

11. PAGE 16, PARA 9(A). PLEASE STRIKE PHRASE "OWNED OR TO BE OWNED BY THE GOVERNMENT OF THE UNITED STATES OF AMERICA." THIS IS SAME PROBLEM WITH THAT PHRASE WE HAVE HAD FROM OUTSET; NOT REQUIRED HERE BECAUSE "SUCH RUPEES" REFERS TO "NON-PL-480 RUPEES" AND "EXCESS RUPEES IN THE COOLEY ACCOUNT," BOTH FULLY DEFINED ELSEWHERE.

12. PAGE 17, PARA 9(B). CLAUSE (III) SHOULD BE DELETED AND CLAUSE (IV) RENUMBERED. THE USES REFERRED TO IN PARA 6(C) OF PART I ARE THE CONVERSION TO DOLLARS OF NON-PL-480 RUPEES WHEN COOLEY REPAYMENTS ARE INSUFFICIENT. THAT USE IS COVERED IN PARA 10(E) AND THUS BY CLAUSE (II) OF THIS PARA 9(B).

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13. PAGE 17, PARA 9(C). DRAFTING AND SUBSTANTIVE PROBLEMS. RE DRAFTING, SUBJECT OF CLAUSE BEGINNING IN LINE 7 NOT CLEAR; ALSO, "SUCH ADDITION" AT TOP PAGE 18 SHOULD BE "SUCH ALLOWANCE". RE SUBSTANCE, "THE YEARS IMMEDIATELY PRECEDING JUNE OF 1972" COULD BE ANY NUMBER OF YEARS, THUS LEAVING CEILING LARGELY UNDEFINED. SUGGEST FOLLOWING REDRAFT:

"(C) EXCEPT AS THE TWO GOVERNMENTS SHALL OTHERWISE AGREE, THE ANNUAL EXPENDITURE OF SUCH RUPEES BY THE GOVERNMENT OF THE UNITED STATES OF AMERICA SHALL NOT EXCEED THE AVERAGE OF ITS ANNUAL RUPEE EXPENDITURES

DURING THE THREE YEARS IMMEDIATELY PRECEDING JUNE OF 1972, SUCH AVERAGE TO BE COMPUTED WITHOUT REFERENCE TO DEVELOPMENT GRANTS MADE DURING THOSE THREE YEARS TO THE GOVERNMENT OF INDIA PURSUANT TO SECTION 104(F) OF PUBLIC LAW 480; PROVIDED, THAT EACH YEAR A REASONABLE ALLOWANCE SHALL BE MADE, BY AGREEMENT BETWEEN THE TWO GOVERNMENTS, TO REFLECT ANY PRICE INFLATION EXPERIENCED IN INDIA."

14. PAGE 18, PARA 10(A). TO AVOID CONFUSION RE CALENDAR YEARS VS. FISCAL YEARS, SUGGEST LINE 2 BE CHANGED TO READ "IN ITS DISCRETION, FOR THE THREE YEARS IMMEDIATELY FOLLOWING THE".

15. PAGE 19, PARA 10(E), LAST LINE. REF TO PARA 6(A) SHOULD BE TO PARA 6. THIS PARA 10(E) REFERS TO USE OF NON-PL-480 RUPEES FOR CONVERSIONS, AND THAT IS COVERED IN PARA 6(C). REF TO THE WHOLE OF PARA 6 COVERS THE PROBLEM.

16. PAGE 19, PARA 11. WE ARE ALL ASSUMING THAT CHANGE FROM "AFTER" TO "IN" CONSULTATION IS TANTAMOUNT TO AGREEING THAT GOI CONSENT WILL BE NECESSARY FOR THESE EXPENDITURES. PORTER

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